REMARKS

This amendment is being filed in response to the non-final Office Action mailed on March 9, 2007. Claims 1-21 have been previously cancelled. Accordingly, claims 22-39 remain pending in the application.

Rejections under 103(a)

Claims 22-39 stand rejected under 103(a) as being unpatentable over Tzamaloukas (U.S. Pat. 6,925,378) in view of Fette et al. (U.S. Pat. 5,612,948). The rejection is respectfully traversed for the reasons discussed below.

Claims 22-30

Claim 22 is directed to a method for operating a vehicle communication unit within a mobile vehicle communication system and recites a number of steps, including the steps of:

> initiating short range wireless communication between the first vehicle and a second vehicle responsive to the primary communication mode failure, wherein the second vehicle has a vehicle communication unit enabled to communicate in the primary communication mode; and
>
> communicating the data with a service provider via a wireless carrier system to request assistance for the first vehicle using the vehicle communication unit on the second vehicle.

This combination of steps are neither disclosed nor suggested in the prior art of record.

In particular, the Office Action states that Tzamaloukas discloses most elements of claim 22, except that it does not disclose "communicating the data with a service provider via a wireless carrier system to request assistance for the first vehicle using the vehicle communication unit on the second vehicle." (Office Action dated 3/09/07, p. 3, lns. 9-11). Instead, Fette is relied on as disclosing this limitation of claim 22. (Office Action dated 3/09/07, p. 3, lines. 12-14; citing Fette, fig. 1, col. 3, lines 42-57.) However, this excerpt from Fette does not specifically teach this claimed step; rather, it teaches utilizing a repeating subscriber node acting as a repeater to complete a cellular connection between a first subscriber node and a base node.

Given this teaching of Fette, the combination of Tzamaloukas and Fette suggested in the last Office Action is improper. In Tzamaloukas, participating vehicles communicate floating car data with a central server via a wireless wide area network link. (Col. 4 lines 25-32) The participating vehicles may communicate with fixed egress points or other participating vehicles acting as mobile egress points. (Col. 3 lines 25-38) As indicated in a GPS location example at Col. 7, line 39 through Col. 8, a participating vehicle having GPS but unable to determine its position (e.g., because of tall buildings), can use dead reckoning as well as link quality information from nearby wireless access points to determine its location.

Conversely, in Fette, a cellular network includes subscriber nodes (16') acting as repeaters for a base node (12). If a subscriber node (16) cannot directly communicate with the base node (12), their communications may be indirectly routed to the base node through one or more repeating subscriber nodes (16') in communication with the base node. (Col. 3 lines 42-47)

If one of ordinary skill in the art were to apply the teachings of Fette to Tzamaloukas, it would be to use Fette's repeater approach to communicating data between Tzamaloukas' vehicles and central server via either the fixed or mobile egress points. That is, applying the teachings of Fette to Tzamaloukas would require one vehicle in Tzamaloukas to act as a repeater for a communication from a second vehicle. If one vehicle were to act as a repeater for the other, as taught in Fette, then the type of communication between the vehicles and from one vehicle to the central server in Tzamaloukas would be the same. However, there is nothing in Tzamaloukas or Fette that would suggest using a secondary communication mode between the two mobile stations (e.g., vehicles) and then a primary communication mode (for which the first vehicle is equipped, but which has failed) to communicate between the second vehicle and central node. In this arrangement that is being claimed by Applicant, the second vehicle is not being used as a repeater of a cellular call as in Fette, but rather is receiving a short range wireless communication from the first vehicle and then transmits the data received via that communication to the call center using a cellular or other wireless carrier system. Thus, unlike either Tzamaloukas or Fette, the method of claim 22 is not using a single wireless communication approach to relay or repeat information to a central node, but is

detecting that one communication approach (e.g., cellular call) has failed and so uses a second communication approach (e.g., short range packetized wireless) to communicate with another vehicle that is able to successfully use the primary communication approach to reach the call center to request assistance for the first vehicle.

Moreover, there is no proper basis for asserting that one of ordinary skill in the art would take from these two references the idea that you could use one communication approach to communicate between two vehicles and the other communication approach to contact a central facility. There is no advantage of doing so that is evident from either reference or the other prior art of record, and one of ordinary skill in the art would have no incentive, motivation or other legally-supportable reason to implement such a communication approach based on the cited references. In this regard, Applicants note the that motivation given in the Office Action at the bottom of page 3 to combine Fette with Tzamaloukas would lead one of ordinary skill in the art to combine the teachings as noted by Applicants above in the preceding paragraph; i.e., to use other vehicles as repeaters using a single communication approach for all connections, as taught by Fette.

Accordingly, Applicants respectfully submit that independent claim 22 patentably defines over the prior art. Claims 23-30 each ultimately depend from claim 22. In view of claim 22, and at least for the reasons articulated above, the Applicant respectfully submits that claims 22-30 are patentable over the prior art.

Claims 31-39

Similar to claim 22, independent claim 31 calls for:

> initiating a second communication mode using a local wireless link between the first vehicle and a second vehicle responsive to the primary communication mode failure, wherein the second vehicle has a second vehicle communication unit configured to communicate using the primary communication mode;

Therefore, for reasons similar to those discussed above in conjunction with claim 22, these steps are neither disclosed nor rendered obvious by the prior art of record.

Claims 32-39 each ultimately depend from claim 31. In view of claim 31, and at least for the reasons articulated above, the Applicant respectfully submits that claims 31-39 are patentable over the prior art.

Conclusion

Accordingly, Applicants respectfully submit that independent claims 22 and 31 each patentably define over the prior art. Claims 23-30 and 32-39 each ultimately depend from one of these claims and should be allowed therewith.

In view of the foregoing, reconsideration is requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for a one-month extension of time and any other required fees or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

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